

21 March 1957

SECTIONAL ANALYSIS OF A PROPOSED BILL
TO AMEND THE CENTRAL INTELLIGENCE AGENCY
ACT OF 1949, AS AMENDED, AND FOR OTHER PURPOSES

SECTION 1.

Under Section 3(a) of the Central Intelligence Agency Act of 1949 the Agency is authorized to exercise certain procurement authorities contained in the Armed Services Procurement Act of 1947. The specific sections of the Armed Services Procurement Act, the authorities of which CIA was authorized to exercise, were incorporated by reference in Section 3(a) of the CIA Act of 1949. Since passage of the CIA Act, additional functions have been assigned to the Agency. This, and added experience, indicate the need to exercise other authorities contained in the Armed Services Procurement Act of 1947.

Under Section 2(c) of the Procurement Act, the Armed Services may negotiate purchases and contracts without advertising in seventeen listed circumstances. The Agency is now authorized by Section 3(a) of the CIA Act to negotiate in ten of these circumstances. It is requested that the remaining negotiation authorities of Section 2(c) be given this Agency.

The Agency has substantial and vitally necessary programs in fields where research and development, standardization of equipment and provision of new or stand-by production facilities are necessities.

The negotiation authorities contained in Sections 2(c)(11), (13), (14), and (16) of the Armed Services Procurement Act are needed to facilitate this work.

In addition, in the field of procurement the Agency faces generally the same problem encountered by the Armed Services, although in some cases only to a minor degree. For this reason the inclusion of the negotiation authorities in Sections 2(c)(8) and (9) of the Armed Services Act is requested, as these circumstances are actually encountered although they were not foreseen at the time the Central Intelligence Agency Act of 1949 was enacted.

Medical facilities are provided our personnel in certain necessary and legally allowable circumstances. As indicated by Section 2(c)(7) of the Armed Services Procurement Act, there should be authority to purchase these by negotiation, since considerations of quality and exact composition often must outweigh a small difference in price.

In the interest of brevity it is proposed that the Armed Services Procurement Act, as a whole, be incorporated by reference in the CIA Act, thereby providing the authorities outlined above as well as those now included in the Act and eliminating the necessity for series of references to particular sections and subsections of the Procurement Act.

SECTION 2.

Section 5 of the CIA Act of 1949 (P.L. 110, 81st Cong.) provides authority for payment of travel expenses, allowances and

related expenses. These authorities are substantially the same as those provided the Department of State in the Foreign Service Act of 1946. However, some of the authorities are granted to CIA in specific language taken from the Foreign Service Act while others are granted by incorporation by reference of some sections of the Foreign Service Act. In addition, some of the authorities have become obsolete since enactment of the CIA Act, and certain amendments to the Foreign Service Act are not available to CIA. In order to bring up to date Agency authority for payment of travel expenses, allowances and related expenses, it is proposed to re-enact Section 5 of the CIA Act by incorporating by reference the appropriate sections of the Foreign Service Act. The result of such a re-enactment will be to make available to the Agency the same authorities now available to the Foreign Service and at the same time contribute to brevity and clarity in Section 5 of the CIA Act.

Section 901 of the Foreign Service Act provides authority for payment of quarters, cost of living, and representation allowances. Generally the same allowances have been available to Agency employees in the past, but from time to time this Section and others of the Foreign Service Act are amended thus leaving a question as to whether or not the amended provisions apply to the Agency. This question arose in regard to the provision of authority to pay education allowances for dependents and, although resolved in favor of the authority of the Agency to do so, there is no clear legislative statement to that effect. For this reason it is deemed advisable

to incorporate by reference Section 901 as a whole and include the words "and as it may hereafter be amended" so as to preclude any question of the application of future amendments to the Agency. Although this method of incorporation by reference of the whole Section results in applying the representation allowance authority to the Agency there is, of course, no intention on our part to use it inasmuch as the very nature of Agency activities makes representation of the United States by Agency officers or employees unlikely and unusual.

Incorporation by reference of Section 911 of the Foreign Service Act extends to CIA employees the educational travel benefits for dependents granted to members of the Foreign Service of the United States by Section 11 of P.L. 22 of the 84th Congress. The latter Section, which is Section 911(9) of the Foreign Service Act, permits payment for one trip to a United States port of entry and return to his parent's post abroad for an employee's child for each of the high school and college periods. The financial and morale problems which this Section attempts to allay are serious, particularly for those employees with more than one child of school age. The cost of education and travel within the United States will still have to be borne by the individual or his parents. Section 911 generally authorizes travel and related expenses, which should be payable for travel either to foreign areas or territories or possessions. However, the authority in Section 911(9) to pay

for the travel of dependents for educational purposes will not be used in cases of employees stationed in territories or possessions from which such travel is not generally authorized for dependents of employees of other Government agencies.

The second proviso in Section 5(a)(1) modifies the authority available in the present Act so as to eliminate the requirement for a determination of emergency conditions before the Agency may store the furniture and household effects of an employee stationed abroad. In many situations, it is considerably less expensive for the Government to store effects than to ship them, and there is no need to ship household effects to many posts abroad. The language is similar to the basic Foreign Service authority made available to them in their Appropriations Acts for several years. The experience of the Government generally has been such that legislative proposals have been made to adopt a less restricted approach to this problem on a Government-wide basis.

Incorporation of Section 933 of the Foreign Service Act in Section 5(a)(1), combined with Section 5(a)(3), brings up to date the authority for the Agency to provide travel for home leave purposes upon completion of two years service abroad and extends the statutory home leave provisions of the Annual and Sick Leave Act of 1951 to CIA employees stationed abroad. There is a need for a period of home leave during which an employee can bring himself up to date on current affairs in the United States and handle personal affairs neglected during long service overseas. The amendment

eliminates the requirement that employees have accumulated sufficient leave to carry them in leave status for 30 days in order to qualify for home leave travel benefits. Under present leave laws it is difficult for some employees to accumulate sufficient leave, and if the proposed companion section providing statutory home leave is enacted the accumulation requirement would be meaningless in any event. The amendment also deletes obsolete references (5 U.S.C. 30, 30(a), and 30(b) have been repealed). These sections will put CIA employees in the same position as members of the Foreign Service in regard to leave.

Incorporation of Sections 941, 942 and 943 of the Foreign Service Act in Section 5(a)(1) extends present Agency authorities in regard to travel for medical care, medical care and establishment of first-aid facilities and equates them with those of the Foreign Service. Some of the authorities are new to this Agency. The Agency will be able to provide travel expenses to a suitable hospital or clinic for a dependent of an employee assigned abroad in a locality where a suitable medical facility does not exist. Because of the location of some of the Agency posts of assignment, adequate medical facilities are often not available. As the members of the employee's family find themselves in these localities solely because of the employee's employment with CIA, as adequate medical facilities are often lacking, and as the cost of travel to adequate facilities is often expensive, it is considered appropriate for the Agency to bear such costs.

By incorporation of Foreign Service language the inequitable situation which previously allowed the Agency to pay for medical care only while the employee was permanently assigned to a foreign station, will be eliminated. The conditions which cause the need for such care are just as likely to arise for individuals on temporary duty status. Similarly, the fact that an employee has been reassigned to the United States should not serve to cut off his right to medical care for injuries or illnesses incurred while abroad. The present language of the CIA Act, unlike the Foreign Service Act, does not take care of this problem.

The amendment also extends limited medical benefits to dependents of an employee who are located abroad because of the employee's assignment to a foreign post. Officers and employees of the Agency and their families are an integral unit, and the employee's effectiveness depends in no small measure on the well-being of his family. Considering the health hazards which exist in many parts of the world where Agency employees are assigned, it is believed that the Government should assist in defraying medical expenses incurred by dependents while they are stationed abroad. Such a provision would place dependents of Agency personnel more on a par with dependents of Foreign Service personnel in the matter of medical services. It is the intention of this Agency to interpret the language of these sections as authorizing travel for medical care for employees or dependents for maternity reasons, and as authorizing payment for medical treatment for employees and dependents in certain types of maternity cases.

The amendment revises the present Section 5(a)(5)(B) so as to permit the employment of a physician or other medical personnel in addition to a nurse at posts where sufficient personnel are employed to justify such arrangements. It is not intended to establish such facilities at all posts. Where suitable Government or private facilities already exist, there would be no reason to do so. However, at some posts either only the most primitive medical facilities exist or suitable facilities, though they exist, are not available. In these instances, the establishment of essential medical facilities and services is not only beneficial to employees' morale, but also is a practical investment from the point of view of the Government as an employer.

The bill also revises Section 5(a)(5)(D) of the present law to grant the authorities providing physical examinations and inoculations to Agency employees as granted to employees of the Foreign Service under Section 943 of the Foreign Service Act of 1946. Section 12 of the Foreign Service Act Amendments of 1955 authorizes the administration of physical examinations and inoculations to dependents although in the past this had been done in practice. There had been some concern that existing law did not clearly authorize the practice; therefore, this amendment was considered a technical clarification of the existing authority.

Section 5(a)(2) of the proposed bill exists in the present law as Section 5(a)(7). The substance has not been changed.

Section 5(a)(4) is a revision of Section 5(a)(2) of the present law. That Section presently authorizes the Agency to charge

expenses in connection with travel and transportation to the appropriation for the fiscal year current when any part of the travel of its personnel begins, notwithstanding that the travel may not be completed during that current fiscal year. This authority to date has been limited to travel involving permanent change of station, however. The reasons underlying the original authority, i.e., ease of administration, appear to be equally applicable to temporary-duty travel and this amendment would authorize similar handling of travel expenses whether the travel involved permanent change of station or temporary duty. The revision also extends the authority to the transportation of automobiles.

Section 5(b) is designed to cover unique problems of this Agency in doing its work abroad which require the use of foreign national employees who, by reason of their position with the Agency, should be permitted the rights and benefits granted only to U.S. citizen employees in other Government agencies.

SECTION 3.

This proposed amendment would raise from 15 to 35 the number of retired officers of the armed services employable by CIA, whose employment by the Federal Government would be otherwise barred by other statutory limitations on the employment of such officers. It was pointed out in the report of the Clark Task Force of the Hoover Commission, and this Agency concurs in its conclusion, that increased use should be made, if possible, of the talents of retired military officers whose ability and experience fit them for the types of work done by this Agency.

SECTION 4.

Section 3648 of the Revised Statutes, to which the waiver provisions of Section 6(g) apply, provides that there shall be no advance of public money unless authorized by the appropriation concerned or by law, or by certain stated exceptions in Section 3648; it provides further that in contracts for the performance of services or the delivery of articles of any description for the use of the United States, payment shall not exceed the value of such service or article delivered previous to such payment. This provision works a hardship in certain foreign countries, whose laws or customs require advance payments, particularly of rent. Frequent exceptions have been made to this provision of law; e.g., for payments made for the Bureau of Customs in foreign countries (31 U.S.C. 529 b), for the enforcement of customs and narcotics laws (31 U.S.C. 529 f), for the Office of Scientific Research and Development (31 U.S.C. 529 h), and for advance payments of office rent in foreign countries by the Bureau of Foreign and Domestic Commerce. This statute is also specifically waived for the armed services, and the Department of State has acquired an exception in its Appropriation Acts.

SECTION 5.

The proposed new Section 9 of the CIA Act will amend the existing Civil Service Retirement Act so as to permit early retirement at full annuity analogous to that authorized for Foreign Service Officers. Agency employees serving abroad often work under extremely unfavorable conditions dangerous to their health and well-being and,

as a result, their usefulness as well as their health may be impaired at an age lower than that normally set for regular retirement under the Civil Service system. The demands of many Agency positions abroad and the tensions upon the employee doing the peculiar work required, combined with extremely unfavorable climatic and sanitary conditions in many foreign areas make such work most suitable for relatively young men. Although such an employee may have been of great value in his foreign assignment, it will often be impossible to properly place him at his attained grade in a headquarters position after his overseas service has ceased. If the Agency is to keep a young and vital working force to carry on its exacting activities, it must offer younger employees reasonable opportunity for advancement to more responsible positions rather than filling such positions with older men whose greatest contributions were in the past. To attain this goal the Agency must be able to offer early retirement with an annuity which will make retirement economically feasible. By making early retirement dependent upon approval of the Director, the Agency will be enabled to retain valuable employees in their middle ages while at the same time permitting honorable and dignified retirement of persons who are surplus for reasons inherent in the nature of their employment and not reflecting upon their ability. Extra service credits will be granted for service abroad at the rate of one year of extra credit for every four years served abroad. As a result, annuities granted to employees retiring under this section will be nearly equal to those granted to the Foreign Service. This method of computing the

amount of annuity is provided, not as a special reward for the type of service involved, but rather because a more liberal formula is usually necessary to make the earlier retirement, with resultant shorter service, economically feasible.